

ORIGINAL

FILED

JUN 27 2006

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BRYAN WERKHEISER,
Plaintiff(s),
v.
CITY OF NAPA, COUNTY OF
NAPA, TIM CANTILLON and
STEVE BECKER,
Defendant(s).

No. C 05-3934 BZ

ORDER OF DISMISSAL

ENTERED IN CIVIL DOCKET

6-2006

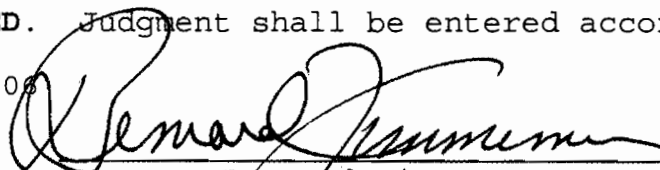
Plaintiff Bryan Werkheiser is suing the City of Napa, the County of Napa, Tim Cantillon and Steve Becker for false detention, arrest, and imprisonment in connection with arson charges against him. He is seeking general damages of \$1 million and special and punitive damages according to proof. He has consented to my jurisdiction under 28 U.S.C. § 636(c). Defendants have not been served. See Neals v. Norwood, 59 F.3d 530, 532 (5th Cir. 1995). See also Williams v. General Elec. Capital Auto Lease, 159 F.3d 266, 269 (7th Cir. 1998).

A Case Management Conference was held in this case on

1 April 24, 2006. Plaintiff failed to appear at the Case
2 Management Conference and had not sought to have his presence
3 excused. Plaintiff also failed to file a Case Management
4 Conference Statement. Nor does it appear plaintiff has served
5 defendants with the complaint, even though I gave him
6 additional time to complete service.

7 After the plaintiff's failure to appear at the Case
8 Management Conference, I issued an Order to Show Cause. I
9 gave the plaintiff until 4:00 p.m. on June 26, 2006 to either
10 serve the defendants and file a proof of service, or show
11 cause why the case should not be dismissed for failure to
12 prosecute under Federal Rule of Civil Procedure 41(b) and
13 failure to serve the defendants under Federal Rule of Civil
14 Procedure 4(m). Plaintiff failed to appear at the show cause
15 hearing on June 26, 2006 and failed to comply with my Order to
16 Show Cause. Accordingly, **IT IS ORDERED** that plaintiff's
17 claims are **DISMISSED**. Judgment shall be entered accordingly.

18 Dated: June 27, 2006



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20 Bernard Zimmerman
United States Magistrate Judge

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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

WERKHEISER,

Plaintiff,

v.

CITY OF NAPA et al,

Defendant.

Case Number: CV05-03934 BZ

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on June 28, 2006, I SERVED a true and correct copy(ies) of the attached **ORDER OF DISMISSAL**, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Bryan Werkheiser
877 Vallejo Street
Napa, CA 94559

Dated: June 28, 2006

Richard W. Wieking, Clerk
By: Rose Maher, Deputy Clerk